

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Peoria County Emergency Telephone System) WT Docket 99-87
Board)
)
Request for Waiver of Section 90.209(b) of the)
Commission's Rules)

ORDER

Adopted: October 12, 2012

Released: October 12, 2012

By the Deputy Chief, Policy and Licensing Division Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. The Peoria County Emergency Telephone System Board (ETSB) filed a request for waiver, until June 30, 2014, of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio licensees in the 150-174 MHz and 450-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz, or equivalent efficiency, by January 1, 2013. By this Order, we grant the Waiver Request.

II. BACKGROUND

2. ETSB manages and represents the communications needs for public safety and non-public safety users within Peoria County, Illinois. ETSB is seeking a waiver of the deadline on behalf of several county agencies that will migrate from seventy-eight VHF and UHF radio authorizations to a new county-wide 700 MHz/800 MHz system. ETSB seeks a waiver of the deadline to allow these agencies to avoid the expense of narrowbanding authorizations that they will decommission (and in many cases surrender) after they transition to the new system.

3. In 2006, ETSB released a Request for Proposal for a county-wide interoperable radio system and awarded a contract to Harris Corporation in September 2007. The system is funded by a combination of dedicated local funds and federal grants. ETSB anticipates the system will be ready on

1 See Narrowband Deadline Waiver Request, filed January 11, 2012, by the Peoria County Emergency System Board (Waiver Request). See also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004).

2 47 C.F.R § 90.209(b).

3 Waiver Request at 3.

4 Id. at 3,8.

5 Id. at 3.

6 Id. at 4.

7 Id. at 6-7.

August 31, 2013, and all agencies will have completed their cut-over to the new system by March 31, 2014.⁸

4. As of August 2012, ETSB has applied for 800 MHz frequencies from the relevant National Public Safety Planning Advisory Committee (NPSPAC) Region, completed all work associated with the radio transmit sites regarding surveys, soil borings and construction plans, and is nearly ready to commence construction of new towers and shelters.⁹ ETSB is also in the process of evaluating microwave system proposals for the new system, and anticipates awarding the contract at its November 7, 2012 Board Meeting.¹⁰

5. On January 27, 2012, the Public Safety and Homeland Security Bureau (Bureau) issued a Public Notice seeking comment on the Waiver Request.¹¹ No party filed comments in support or in opposition of the request.

III. DISCUSSION

6. ETSB seeks relief pursuant to Section 1.925 of the Federal Communications Commission's (FCC or Commission) rules, which provides that to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;¹² or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹³

7. Applying this standard to narrowbanding, we have stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests "will be subject to a high level of scrutiny" under the waiver standard.¹⁴ We have also provided recommended guidance on the factors that licensees should address in their requests and have recommended that in addressing these factors, licensees should seek to demonstrate that "(i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process."¹⁵

⁸ *Id.* at 5.

⁹ See email, dated August 9, 2012 from Dan Voiland, Peoria County Radio System Manager, to Roberto Mussenden (August Voiland Email).

¹⁰ See email, dated October 1, 2012 from Dan Voiland, Peoria County Radio System Manager, to Roberto Mussenden (October Voiland Email).

¹¹ See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, DA 12-90 (PSHSB 2012).

¹² 47 C.F.R. § 1.925(b)(3)(i).

¹³ 47 C.F.R. § 1.925(b)(3)(ii).

¹⁴ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office Of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

¹⁵ *Id.* at 9649.

8. Based on the record before us, we conclude that the County's request warrants waiver relief because it has demonstrated that the underlying purpose of the narrowbanding deadline – to promote spectrum efficiency and increase available capacity – would not be served by strict application to the present case, and that a grant of the waiver would be in the public interest.

9. The record shows that since 2006, ETSB has been diligently engaged in constructing a new radio communications system that would obviate the need for ETSB to comply with the narrowbanding requirements.¹⁶ In this regard, we note that ETSB is in the process of procuring twenty-seven FCC NPSPAC, 700/800 MHz narrowband frequencies, in addition to thirteen 800 MHz channels it acquired earlier.¹⁷ In granting relief to ETSB, we also consider the complexity and scale of its new multi-jurisdictional radio communications system and the unexpected delays ETSB encountered during the planning process.¹⁸ Notwithstanding these delays, we find encouraging ETSB's commitment to vacate its use of the UHF and VHF bands within less than two years of the January 1, 2013 deadline. As a result, we find that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule. We also find that waiver relief is consistent with the public interest because it will enable the County to leverage its limited resources to complete an improved, county-wide, multi-agency, interoperable communications system.¹⁹

IV. CONCLUSION

10. Based on the foregoing, we conclude that grant of the waiver is in the public interest. Accordingly, we grant on the a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline for the agencies and call signs listed in Appendix A until June 30, 2014.

V. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3)(i) of the Commission's rules, 47 C.F.R. § 1.925(b)(3)(i), that the Request for Waiver filed by the Peoria County Emergency Telephone System Board IS GRANTED.

12. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

¹⁶ See Waiver Request at 4.

¹⁷ *Id.*

¹⁸ See *id.* at 6-7.

¹⁹ See Waiver Request at 6.

Appendix A: List of Affected Call Signs

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| KSD224 | Limestone Township Fire Protection District |
| WNZX975 | Limestone Township Fire Protection District |
| KF2549 | West Peoria Fire Protection District |
| KNBD811 | West Peoria Fire Protection District |
| KNBD911 | West Peoria Fire Protection District |
| KSE413 | West Peoria Fire Protection District |
| WPKH458 | Timber Hollis Fire Protection District |
| KGW779 | Elmwood Fire Department Inc. |
| KMB642 | Greater Peoria Airport Authority |
| KUN861 | Greater Peoria Airport Authority |
| WNGT256 | Greater Peoria Airport Authority |
| KA87841 | Peoria, County of Sheriffs Dept |
| KNNS796 | Peoria, County of Sheriffs Dept |
| KSH226 | Peoria, County of Sheriffs Dept |
| KCJ417 | Peoria, City of |
| KEL390 | Peoria, City of |
| KNAT718 | Peoria, City of |
| KSA946 | Peoria, City of |
| KTE551 | Peoria, City of |
| KZP220 | Peoria, City of |
| KZZ351 | Peoria, City of |
| WXL707 | Peoria, City of |
| WXL708 | Peoria, City of |
| KD49135 | Elmwood, City of |
| KVM479 | Elmwood, City of |
| KSB568 | Chillicothe, City of |
| WPVP778 | Chillicothe, City of |
| KNFL520 | Limestone, Township of |
| WPCI769 | Ambulance Rescue 33 LTD |
| WQAC661 | Ambulance Rescue 33 LTD |
| KNBB289 | Logan Trivoli Fire Protection District |
| KNBM215 | Logan Trivoli Fire Protection District |
| KSE428 | Logan Trivoli Fire Protection District |
| KAZ687 | Akron Princeville Ambulance Inc |
| KSE279 | Akron Princeville Fire Protection District |
| KNFZ525 | Chillicothe, City of |

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| WPDI624 | Chillicothe Sanitary District |
| KNFS610 | OSF Saint Francis Medical Center |
| KRG841 | OSF Saint Francis Medical Center |
| WPEY891 | OSF Saint Francis Medical Center |
| WPUD413 | OSF Saint Francis Medical Center |
| WPXK935 | OSF Saint Francis Medical Center |
| WPYG591 | OSF Saint Francis Medical Center |
| WQEN997 | OSF Saint Francis Medical Center |
| KNFF287 | Bradley University |
| KA76306 | B Y E Ambulance Service |
| KYR211 | Tuscarora Fire Protection District |
| WPDA313 | Tuscarora Fire Protection District |
| KFV554 | Dunlap Fire Protection District |
| KNBC439 | Dunlap Community Fire Protection Dist |
| KAJ202 | Dunlap Rescue Squad |
| KJU336 | Peoria Heights, Village of |
| KNFM242 | Peoria Heights, Village of |
| WNDS205 | Peoria Heights, Village of |
| WQKN408 | Peoria Heights, Village of |
| KNBC440 | Dunlap, Village of |
| KSO416 | Dunlap, Village of |
| WPEC819 | Dunlap, Village of |
| KNBW723 | Bartonville, Village of |
| KNBY462 | Bartonville, Village of |
| KNGD359 | Bartonville Volunteer Fire Dept |
| WPHI870 | Bartonville, Village of |
| WPKF842 | Bartonville, Village of |
| WPDU357 | Greater Peoria Sanitary and Sewage Disposal District |
| KTH434 | Peoria, County of |
| WPCH274 | Akron Princeville Fire Protection District |
| KZV871 | Chillicothe, Township of |
| KSE293 | Timber Hollis Fire Protection District |
| KNBH431 | Peoria, County of |
| KSD295 | Peoria, County of |
| WPEC820 | Peoria, County of |
| WNWL489 | Proctor Hospital |
| WQEK224 | Proctor Hospital |
| KSE880 | Brimfield Community Fire Protection District |
| KNDJ429 | Peoria, City of |

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|---------|--------------------------|
| WPMG684 | OSF Healthcare System |
| WPWY525 | OSF Healthcare System |
| WQLR520 | Peoria Police Department |
| WQNG453 | Trivoli Township |